

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 10/8/09. Claims 1, 2, 4, 5, and 11 have been amended. Claims 3, 9, and 22-29 have been canceled. Claims 1, 2, 4-8, and 10-21 are pending.

Claim Rejections - 35 USC § 101

2. The rejection of claims 1-2 and 10 under 35 U.S.C. 101 is hereby withdrawn due to the amendment filed 10/8/09.

Claim Rejections - 35 USC § 112

3. The rejection of claims 4-8 and 11-21 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 10/8/09.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4-8, and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb in view of Riff et al. (US 2002/0026223 A1).

(A) Referring to claim 1, Webb discloses a system for translating medical data, the system comprising:

a system server including a first server port operable to receive encoded data from a first implantable medical device type and a second server port operable to receive encoded data from a second implantable medical device type (col. 7, lines 52-64, col. 12, lines 50-63, Fig. 1, col. 14, lines 22-42 of Webb).

a first interpretation system operable to receive a first encoded data set from the first server port, wherein the first encoded data set is encoded in a form specific to the first implantable medical device type, the first interpretation system further operable to convert the first encoded data set to a first decoded data set (col. 7, lines 52-64, col. 12, lines 50-63, Fig. 1, col. 14, lines 22-42 of Webb);

a second interpretation system operable to receive a second encoded data set from the second server port, wherein the second encoded data set is encoded in a form specific to the second implantable medical device type and different from the first implantable medical device type, the second interpretation system further operable to convert the second encoded data set to a second decoded data set (col. 7, line 52 – col. 8, line 42, col. 12, lines 50-63, Fig. 1, col. 14, lines 22-42 of Webb);

a first data abstraction engine operable to receive the first decoded data set from the first interpretation system (col. 8, lines 34-64 of Webb);

a second data abstraction engine operable to receive the second decoded data set from the second interpretation system (col. 8, lines 34-64 of Webb); and

wherein the first data abstraction engine and the second data abstraction engine associate elements of the first decoded data set and the second decoded data set, respectively, to data elements common to the first and second implantable medical device types to provide a first abstracted data set and a second abstracted data set, respectively, in a common data format (abstract, col. 23, lines 35-53, and col. 8, lines 34-64 of Webb).

Webb does not expressly disclose that the second implantable device type's port is different from the first implantable device type's port.

Riff discloses disclose that the second implantable device type's port is different from the first implantable device type's port (para. 22 and para. 25-26 of Riff).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Riff within Webb. The motivation for doing so would have been to take appropriate action according to the particular IMD in use (para. 25 of Riff).

(B) Referring to claim 2, Webb discloses wherein the system further comprises: a first communication link connected to the first server port, wherein the encoded data set received from the first implantable medical device is received via the first communication link; and a second communication link connected to the second server port, wherein the encoded data set received from the second implantable medical

device is received via the second communication link (col. 6, lines 5-39 and col. 9, lines 21-39 of Webb).

(C) Referring to claim 4, Webb discloses wherein the system server includes a processor and a computer readable medium, and wherein the computer readable medium includes instructions executable by the processor to: receive the first encoded data set from one of a plurality of implantable medical device types via a communication network; identify the one of the plurality of medical device types; and communicate the first encoded data set via the first communication link to the first interpretation system (Fig. 1, col. 4, lines 16-36, col. 7, lines 52-64, col. 9, lines 21-39, and col. 20, line 66 – col. 21, line 13 of Webb).

(D) Referring to claim 5, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: store the first encoded data set to a raw database (col. 8, lines 16-33 of Webb).

(E) Referring to claim 6, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: receive the first abstracted data set; receive the second abstracted data set; and store the first abstracted data set and the second abstracted data set in a comprehensive database (col. 8, lines 16-64 of Webb).

(F) Referring to claim 7, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: receive the first abstracted data set; receive the second abstracted data set; distribute at least a portion of the first

abstracted data set and the second abstracted data set to a first recipient; and distribute at least a portion of the first abstracted data set and the second abstracted data set to a second recipient (col. 8, lines 16-64 of Webb).

(G) Referring to claim 8, Webb discloses wherein the first recipient is a first subset database, and the second recipient is a second subset database (col. 13, lines 5-42 and col. 14, lines 11-18 of Webb).

(H) Referring to claim 10, Webb discloses wherein the common data format is a standardized format (col. 7, line 52 – col. 8, line 15 of Webb).

(I) Referring to claim 11, Webb discloses a system for translating medical data, the system comprising (abstract of Webb):

a data translation system, wherein the data translation system comprises a processor and a computer readable medium, and wherein the computer readable medium includes instructions executable by the processor to (Fig. 1 and col. 7, lines 52-64 of Webb):

receive an encoded data set from one of a plurality of implantable medical device types via one of a plurality of ports (col. 7, lines 52-64, Fig. 8, and col. 13, lines 36-42 of Webb); and

select a conversion utility, wherein selection of the conversion utility is based at least in part upon the encoded data set received from one of the implantable medical devices; spawn the conversion utility; and translate the encoded data set to a decoded data set (Fig. 9, col. 22, lines 37-57, col. 8, lines 1-64, and col. 7, lines 52-64 of Webb).

Webb does not expressly disclose wherein each of the plurality of ports is assigned to one of the implantable medical device types and wherein selection is based at least in part upon the port.

Riff discloses wherein each of the plurality of ports is assigned to one of the implantable medical device types and wherein selection is based at least in part upon the port (para. 22 and para. 25 of Riff).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Riff within Webb. The motivation for doing so would have been to take appropriate action according to the particular IMD in use (para. 25 of Riff).

(J) Referring to claims 12 & 18, Webb discloses wherein the processor is a first processor, and wherein the computer readable medium is a first computer readable medium, wherein the system further comprises a system server, wherein the system server includes a second processor and a second computer readable medium, and wherein the second computer readable medium includes instructions executable by the processor to: receive the encoded data set from the one of a plurality of implantable medical device types via a communication network and identify the one of the plurality of medical device types (Fig. 1, col. 7, lines 52-64, col. 9, lines 21-39, and col. 20, line 66 – col. 21, line 13 of Webb); and direct the encoded data set to the one of the plurality of ports corresponding to the one of the plurality of implantable medical device types (Fig. 8 and col. 13, lines 36-42 of Webb).

(K) Referring to claim 13, Webb discloses wherein the second computer readable medium further includes instructions executable by the second processor to: store the encoded data set from the one of the plurality of implantable medical device types to a raw database (col. 18, lines 16-33 of Webb).

(L) Referring to claim 14, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: abstract the decoded data set to an abstracted data set with elements common to each of the plurality of implantable medical device types (col. 8, lines 16-64 of Webb).

(M) Referring to claim 15, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: communicate the abstracted data set to a recipient selected from a group consisting of: a system server, a gateway server, and a diagnostic server (Fig. 1, col. 7, line 52 - col. 8, line 15 of Webb).

(N) Referring to claim 16, Webb discloses wherein the processor is a first processor, and wherein the computer readable medium is a first computer readable medium, wherein the system server includes a second processor and a second computer readable medium, and wherein the second computer readable medium includes instructions executable by the processor to: receive the abstracted data set; and store the abstracted format data set to a comprehensive database (Fig. 1 and col. 8, lines 16-64 of Webb).

(O) Referring to claim 17, Webb discloses wherein the processor is a first processor, and wherein the computer readable medium is a first computer readable medium, wherein the system server includes a second processor and a second computer readable medium, and wherein the second computer readable medium includes instructions executable by the processor to: receive the abstracted data set; and distribute at least a portion of the abstracted data set to a recipient (Fig. 1 and col. 8, lines 16-64 of Webb).

(P) Referring to claim 19, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: store the abstracted data set to a storage area selected from a group consisting of: a comprehensive database, and a subset database (col. 8, lines 16-64 of Webb).

(Q) Referring to claim 20, Webb discloses wherein the computer readable medium further includes instructions executable by the processor to: translate the abstracted data set to a selected format data set (col. 7, line 52 – col. 8, line 15 of Webb).

(R) Referring to claim 21, Webb discloses wherein the processor is a first processor, and wherein the computer readable medium is a first computer readable medium, wherein the system further comprises a system server, wherein the system server includes a second processor and a second computer readable medium, and wherein the second computer readable medium includes instructions executable by the processor to: receive the selected format data set; and communicate the selected format data set to a recipient (Fig. 1 and col. 8, lines 1-64 of Webb).

Response to Arguments

6. Applicant's arguments filed 10/8/09 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 10/8/09.

(1) Applicant argues that Webb does not teach or suggest a server including multiple ports each operable to receive encoded data from different implantable medical device types. Webb also does not disclose different interpretation systems and producing data in a common format.

(2) Applicant argues that Riff does not disclose, teach, or suggest that the IMD port interface includes a plurality of ports each assigned to one implantable medical device type, much less any sort of selection based on the port via which encoded data is received.

(A) As per the first and second arguments, the Examiner respectfully submits that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). In this case, there are two server ports, two interpretation systems, two implantable device types, and two data abstraction engines that perform the same functions. Furthermore, Webb does disclose different implantable device types (note col. 14, lines 27-42 of

Webb which discloses devices such as a bradycardia pacemaker or anti-tachyarrhythmia device).

In response to applicant's arguments against the Riff reference individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches component architecture for medical device system networks (US 2002/0032720 A1); and a physician interface expert system for programming implantable arrhythmia treatment devices (5,607,460).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./
Examiner, Art Unit 3686
In
1/7/10

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